

ORDINANCE NO. -05

**AN URGENCY INTERIM ZONING ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF SUNNYVALE ESTABLISHING A MORATORIUM ON THE
ESTABLISHMENT OF ANY “PLACES OF ASSEMBLY” IN INDUSTRIAL AND
COMMERCIAL ZONING DISTRICTS (M-S, M-3, C-1, C-2, C-3 AND C-4
DISTRICTS) AND ANY “AMUSEMENT AND RECREATIONAL USES” IN
INDUSTRIAL ZONING DISTRICTS (M-S AND M-3 DISTRICTS) FROM
SEPTEMBER 20, 2005, THROUGH AND INCLUDING NOVEMBER 4, 2005,
UNLESS EXTENDED BY FURTHER ACTION OF THE CITY COUNCIL, TO TAKE
EFFECT IMMEDIATELY**

WHEREAS, under the City of Sunnyvale’s current zoning code, some “recreational” uses may be approved in industrial zoning districts through a use permit. “Recreational” uses include amusement, athletic, cultural and recreational enterprises. “Amusement” includes establishments engaged in providing amusement or entertainment, usually for a fee or admission charge and includes such activities as coin operated games, bowling alleys, billiard and pool halls, miniature golf courses, dance halls, musical entertainment, theaters, comedy clubs, amusement parks, commercial sports arenas and race tracks, membership sports and recreation clubs, swimming pools, game parlors and carnival operations; and

WHEREAS, in 2004, in conjunction with adoption of the Downtown Specific Plan, the City Council of the City of Sunnyvale adopted a new two-pronged definition for “Places of assembly” in its zoning code to clarify certain uses. “Places of assembly – business serving” means permanent headquarters and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, such as business associations, professional membership organizations, labor unions and similar organizations. “Places of assembly – community serving” means permanent headquarters and meeting facilities for civic, social and fraternal organizations (not including lodging), political organizations and other membership organizations. This category includes religious uses and facilities operated for worship; promotion of religious activities, including houses of worship and education and training; and accessory uses on the same site, such as living quarters for ministers and staff, and child day care facilities where authorized by the same type of land use permit required for the primary use; and

WHEREAS, the City currently has no overall strategy for permitting recreational uses and places of assembly in commercial and industrial zones, and instead considers them on a case-by-case basis through a use permit process. Accordingly, the City is undertaking a study to consider by what process and to what extent places of assembly and recreational uses should be permitted in these zoning districts; and

WHEREAS, due to the recent economic downturn, the value of commercial and industrial zoned land in the City has decreased below that of commercial and industrial uses thus allowing untraditional uses (recreational/places of assembly) the opportunity to operate in locations that historically have not been economically feasible; the City has received a large number of recent applications for use permits to allow such uses in these districts; and

WHEREAS, if recreational uses and places of assembly are allowed to locate in commercial and industrial districts without appropriate regulation, such uses might be established in areas that would conflict with the requirements of the General Plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare, and if such uses were allowed to proceed under current zoning, such uses could conflict with and defeat the purpose of the proposal to study and adopt new regulations regarding the location of places of assembly and recreational uses in commercial and industrial zones; and

WHEREAS, this urgency ordinance is adopted pursuant to the requirements of Government Code section 65858.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDING. DECLARATION OF URGENCY. The City Council of the City of Sunnyvale hereby finds and declares that there is a need to enact an urgency interim ordinance establishing a moratorium on all new places of assembly in commercial and industrial zoning districts and recreational uses in industrial zoning districts within the City of Sunnyvale. The City has recently received numerous inquiries regarding the establishment of such uses in these zoning districts. If these uses are allowed to be located in commercial and industrial districts without appropriate review of location and operational criteria and standards, they could have potential adverse effects on surrounding areas because they might be established in areas that would conflict with the requirements of the General Plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare. The City finds that if such uses are allowed to proceed under current zoning, they could conflict with and defeat the purpose of the proposal to study and develop new regulations regarding the location of places of assembly in commercial and industrial zones. Failure to enact this moratorium during the stated period may result in significant irreversible change to the character of the subject zoning districts. Based on the foregoing, the City Council does hereby declare this urgency ordinance is necessary to protect the public health, safety, and welfare while considering revisions to the zoning regulations related to places of assembly in commercial and industrial districts and recreational uses in industrial districts.

SECTION 2. MORATORIUM. The City Council hereby declares a moratorium on the establishment of any and all places of assembly in commercial and industrial (M-S, M-3, C-1, C-2, C-3 and C-4) zoning districts, and recreational uses in industrial (M-S and M-3) zoning districts. Any applications for such uses which have been accepted and deemed complete as of September 20, 2005, the effective date of this ordinance, shall be considered under existing procedures which require a use permit.

No other applications shall be accepted or considered during the period of time that this ordinance is effective.

SECTION 3. CEQA. The City Council hereby determines that this ordinance is exempt from environmental review under the California Environmental Quality Act because it can be seen with certainty it will not have a significant effect on the environment. (CEQA Guideline 15061(b)(3).)

SECTION 4. EFFECTIVE DATE. This interim ordinance shall become effective and shall remain in full force from September 20, 2005, through and including November 4, 2005, unless extended prior to expiration date.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Mayor

ATTEST:

By _____
City Clerk
(SEAL)